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STATE OF CALIFORNIA
BOARD OF PSYCHOLOGY
SACRAMENTO, CA
BY Julie Brown

8
9 **BEFORE THE**
BOARD OF PSYCHOLOGY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 RANDY RAND, Ed.D.
P.O. Box 569
14 Mill Valley, California 94942

15 Psychologist's License Number PSY 12137

16 Respondent.

Case No. 1F 2004 158933

THIRD AMENDED ACCUSATION

17
18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Robert I. Kahane, is the Executive Officer of the California
21 Board of Psychology ("Board of Psychology" or "board") and brings this Third Amended
22 Accusation solely in his official capacity.

23 2. At all times material, respondent Randy Rand, Ed.D. ("respondent" or "Dr.
24 Rand") has held Psychologist's License No. PSY 12137 which was issued to him by the Board on
25 March 4, 1991. Unless renewed, the license will expire on December 31, 2010.

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1 JURISDICTION

2 3. This Third Amended Accusation is brought before the Board of
3 Psychology, Department of Consumer Affairs, under the authority of the following sections of
4 the California Business and Professions Code ("Code").

5 4. Section 2960 of the Business and Professions Code states in pertinent part
6 that the Psychology Board may suspend, revoke, or place on probation a licensee for
7 unprofessional conduct which is defined to include, but is not limited to, any of the following
8 causes:

9 "

10 "(i) Violating any rule of professional conduct promulgated by the board
11 and set forth in regulations duly adopted under [Chapter 6.6 of Division 2 of the
12 Business and Professions Code].

13 "(j) Being grossly negligent in the practice of his or her profession.

14 "(k) Violating any of the provisions of [Chapter 6.6 of Division 2 of the Business
15 and Professions Code] or regulations duly adopted thereunder.

16 "

17 "(n) The commission of any dishonest, corrupt, or fraudulent act.

18 "

19 "(r) Repeated acts of negligence."

20 5. Section 2936 of the Business and Professions Code provides that "[t]he
21 board shall establish as its standards of ethical conduct relating to the practice of psychology, the
22 "Ethical Principals and Code of Conduct" published by the American Psychological Association
23 (APA). Those standards shall be applied by the board as the accepted standard of care in all
24 licensing examination development and in all board enforcement policies and disciplinary case
25 evaluations."

26 6. American Psychological Association. (2002) Ethical Principles of
27 Psychologists and Code of Conduct, Ethical Standard 9.01, Bases for Assessments, states:

28 "(a) Psychologists base the opinions contained in their recommendations, reports, and

1 diagnostic or evaluative statements, including forensic testimony, on information and
2 techniques sufficient to substantiate their findings.

3 “(b) Except as noted in 9.01c, psychologists provide opinions of the psychological
4 characteristics of individuals only after they have conducted an examination of the
5 individuals adequate to support their statements or conclusions. When, despite
6 reasonable efforts, such an examination is not practical, psychologists document the
7 efforts they made and the result of those efforts, clarify the probable impact of their
8 limited information on the reliability and validity of their opinions, and appropriately
9 limit the nature and extent of their conclusions or recommendations.

10 “(c) When psychologists conduct a record review or provide consultation or supervision
11 and an individual examination is not warranted or necessary for the opinion,
12 psychologists explain this and the sources of information on which they based their
13 conclusions and recommendations.”

14 7. Section 125.3 of the Business and Professions Code provides, in part, that
15 the Board may request the administrative law judge to direct any licensee found to have
16 committed a violation or violations of the licensing act, to pay the Board a sum not to exceed the
17 reasonable costs of the investigation and enforcement of the case.

18 8. Business and Professions Code section 2964.6 provides that “[a]n
19 administrative disciplinary decision that imposes terms of probation may include, among other
20 things, a requirement that the licensee who is being placed on probation pay the monetary costs
21 associated with monitoring the probation.”

22 **FACTS**

23 9. At all times relevant to this matter, respondent has been licensed as a
24 psychologist in the state of California.

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1 grievance, that he would send his exit letter to her and LD. Mr. Silverman told Dr. Rand that any
2 waiver of grievance would have to be conditional.

3 16. Dr. Rand told Mr. Silverman that JI's demand for a conditional waiver was
4 unreasonable and that he intended to stay on as special master.

5 17. In April 2004, JI retained Frank Dougherty, Ph.D, to try to negotiate Dr.
6 Rand's resignation as special master. Dr. Dougherty was licensed both as a psychologist and a
7 lawyer and had experience as a special master.

8 18. On May 14, 2004, Dr. Dougherty sent Dr. Rand a formal association of
9 counsel form that was to be filed with the Sonoma County Superior Court; on or about May 18,
10 2004, Dr. Dougherty obtained approval from LD's lawyer to contact Dr. Rand; and on May 27,
11 2004, Dr. Dougherty sent Dr. Rand an endorsed copy of the association of counsel form which
12 had been filed with the court. The form was a Notice of Limited Scope Representation which
13 provided that Dr. Dougherty would represent JI in the case *In re the Marriage of LD and JI* on
14 the limited issue of her grievance against the special master.

15 19. A conference call was scheduled for June 1, 2004 between Dr. Rand and
16 the parties' lawyers to discuss JI's grievance against Dr. Rand. Dr. Rand refused to permit Dr.
17 Dougherty to participate in the conference call, sending an e-mail to Mr. Silverman and LD's
18 lawyer Bruce Schwartz stating "to avoid any confusion, I expect to talk with just Alan and
19 Bruce" and a follow-up e-mail adding "[r]egardless of Mr. Dougherty's attorney standing in this
20 case, I specifically requested to talk with just Bruce and Alan."

21 20. Because Dr. Dougherty was precluded from participating in the June 1,
22 2004 conference call addressing JI's grievance, the issue JI had retained him to handle, Mr.
23 Silverman declined to participate in the conference call as well.

24 21. On June 1, 2004, Dr. Rand had a 1.25 hour teleconference with LD and his
25 lawyer about JI's grievance against Dr. Rand and the special master order.

26 22. On June 9, 2004, Dr. Rand sent an e-mail to Mr. Silverman saying that "I
27 have given several warnings and demands, I do not want any communication from or with Dr.
28 Dougherty and I have the authority and discretion to communicate or not with any attorney in this

1 matter, regardless of a standing of 'association' to you as attorney representing [JI]. When I can,
2 I'm asking for a restraining order."

3 23. On the same day, June 9, 2004, Dr. Rand had another conference call with
4 LD and his lawyer.

5 24. In August 2004, Dr. Dougherty substituted into the case as JI's lawyer for
6 all purposes--the final document substituting him in was accepted by the court and filed
7 September 3, 2004.

8 25. At a hearing on January 4 and 5, 2005, Dr. Rand admitted under oath that
9 he had said that he would not meet with or discuss the case with Dr. Dougherty even after he had
10 associated into the case.

11 26. Dr. Rand has consistently refused to talk to or otherwise communicate
12 with Dr. Dougherty other than to serve him with copies of documents he files with the court.

13 27. Dr. Rand has not spoken to JI since January 13, 2004.

14 28. Dr. Rand has continued to speak to LD and his lawyer on a regular basis
15 up to the present.

16 29. In or about early 2005, Dr. Rand sought representation in New Hampshire
17 to attempt to enforce a lien against property owned by JI in New Hampshire. Dr. Rand contacted
18 LD to obtain his permission to call the lawyer who had represented him against JI in an
19 Emergency Petition for Ex Parte Custody in New Hampshire.

20 30. Dr. Rand retained the lawyer who had represented LD in the earlier action
21 to sue JI. On March 29, 2005, LD's former lawyer filed a Petition to Attach JI's property on Dr.
22 Rand's behalf in the Superior Court of the State of New Hampshire seeking to collect fees from
23 JI by enforcing a lien against her property.

24 **FIRST CAUSE FOR DISCIPLINARY ACTION**

25 (General Unprofessional Conduct, Gross Negligence)

26 31. Respondent is subject to disciplinary action pursuant to section 2960
27 (general unprofessional conduct) and section 2960 subdivisions (j) (gross negligence) and (k)
28 (violating laws and/or regulations governing the practice of psychology) in that he agreed to

1 resign as special master if JI would drop her complaints against him and then stayed on as special
2 master when she wouldn't agree to an unconditional waiver of grievance.

3 **SECOND CAUSE FOR DISCIPLINARY ACTION**

4 (General Unprofessional Conduct, Gross Negligence)

5 32. Respondent is subject to disciplinary action pursuant to section 2960
6 (general unprofessional conduct) and section 2960 subdivisions (j) (gross negligence) and (k)
7 (violating laws and/or regulations governing the practice of psychology) in that from June 2004
8 to the present, he communicated with LD and his lawyer by telephone but communicated with JI
9 via e-mail only and refused to communicate with JI's lawyer at all.

10 **THIRD CAUSE FOR DISCIPLINARY ACTION**

11 (General Unprofessional Conduct, Gross Negligence)

12 33. Respondent is subject to disciplinary action pursuant to section 2960
13 (general unprofessional conduct) and section 2960 subdivisions (j) (gross negligence) and (k)
14 (violating laws and/or regulations governing the practice of psychology) in that he hired LD's
15 lawyer to bring a lawsuit against JI.

16 **FOURTH CAUSE FOR DISCIPLINARY ACTION**

17 Withdrawn

18 **ORANGE COUNTY, FLORIDA CASE**

19 34. RS and his ex-wife SS were divorced in 1992 and RS was given sole
20 custody of their three year old son.

21 35. In or about 2004, SS filed suit in the Circuit Court of the Ninth Judicial
22 Circuit, Orange County, Florida, case number DR-04-18795, *S v. S*, seeking to have the custody
23 status changed.

24 36. A child custody evaluation was conducted and the evaluator concluded
25 that the child had been alienated from his mother, that it might be necessary to move the child to
26 his mother's home, and that the child should undertake counseling with a therapist experienced
27 in dealing with parental alienation syndrome. The child began counseling with Dr. Robert
28 Evans, a licensed school psychologist recommended by the evaluator.

1 37. At a hearing before the court in November 2005, Dr. Evans testified that
2 he believed the child needed to participate in a type of parental alienation intervention that had
3 been designed by Dr. Rand. He testified that he had consulted with Dr. Rand on the case because
4 he considered Dr. Rand to be an expert in the area of parental alienation syndrome.

5 38. The judge telephoned Dr. Rand during the hearing, placed him under oath,
6 and questioned him about the intervention protocol proposed by Dr. Evans and asked him his
7 opinion of whether the child should go through the intervention process.

8 39. Dr. Rand described his protocol for the court and in response to
9 questioning by the judge, agreed that it was his conclusion that the child was "severely alienated"
10 and that "for the child's best interest that the child's custody be changed to the mother, and that
11 the child go through this intervention process."

12 40. Dr. Rand did not explain to the court the probable impact on the reliability
13 and validity of his opinions of his not having personally interviewed or evaluated the child.

14 41. Dr. Rand advised the Board of Psychology in a letter dated December 12,
15 2006, that he had a "very peripheral involvement in this Family Law matter" and that the judge
16 had called him at his office "for the sole purpose of inquiring about generic information
17 pertaining to a program [he] developed" despite the fact that the court had asked his opinion
18 about the specific family law matter at issue and, if the court had ordered an intervention, it was
19 his intent to spend one week at a retreat in upstate New York performing the intervention with
20 the child and training the child's current therapist in his technique.

21 42. In his December 12, 2006 letter to the Board of Psychology, Dr. Rand
22 stated that he had made it clear to the court that he "was not making custody recommendations
23 and only providing generic case information." Yet, only minutes after so advising the court, he
24 did make a custody recommendation.

25 **FIFTH CAUSE FOR DISCIPLINARY ACTION**

26 (General Unprofessional Conduct, Gross Negligence)

27 43. Respondent is subject to disciplinary action pursuant to section 2960
28 (general unprofessional conduct), section 2960 subdivisions (i) (violating rule of professional

1 conduct), (j) (gross negligence), and (k) (violating laws and/or regulations governing the practice
2 of psychology), section 2936 (violation of APA Code of Ethics), and the Ethical Principles of
3 Psychologists and Code of Conduct, Ethical Standard 9.01 (bases for assessments) in that he
4 offered to the court an opinion about a characteristic of a child whom he had not personally
5 interviewed or evaluated, concluding that the child was severely alienated, and made a custody
6 recommendation concerning the child without stating the limitations of his opinions.

7 **SIXTH CAUSE FOR DISCIPLINARY ACTION**

8 (General Unprofessional Conduct, Dishonesty)

9 44. Respondent is subject to disciplinary action pursuant to section 2960
10 (general unprofessional conduct) and section 2960 subdivisions (k) (violating laws and/or
11 regulations governing the practice of psychology) and (n) (dishonesty) in that he dramatically
12 misrepresented his role and involvement in the Florida case to the Board of Psychology.

13 **SEVENTH CAUSE FOR DISCIPLINARY ACTION**

14 (Repeated Negligent Acts)

15 45. Respondent is subject to disciplinary action pursuant to section 2960
16 subdivision (r) (repeated negligent acts) in that he engaged in the conduct set out in the First
17 through Fifth Causes for Discipline.

18 WHEREFORE, complainant requests that a hearing be held on the matters alleged
19 above, and that following the hearing, the Board issue a decision:

20 1. Suspending or revoking Psychology License No. PSY 12137 issued to
21 respondent Randy Rand, Ed.D.; and

22 2. Ordering respondent to pay the Board the reasonable costs of the
23 investigation and enforcement of this case, and, if placed on probation, the costs of probation
24 monitoring;

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3. Taking such other and further action as the Board deems necessary and proper.

DATED: February 18, 2009



ROBERT I. KAHANE, Executive Officer
Board of Psychology

Complainant